

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TIMOTHY JACKSON SEELEY

Plaintiff,

No. CIV S-04-1800 DFL CMK P

vs.

TERSEA A. SCHWARTZ, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding in forma pauperis and without counsel, brings this action against defendants alleging violations of his First Amendment rights and of his statutory rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA). Currently before the court is defendants' "Request for Judicial Notice of Complaint Plaintiff Served on Defendants." (Doc. 93).

On March 10, 2005, the court granted plaintiff's motion to file an amended complaint, and directed the clerk to file the proposed amended complaint submitted by plaintiff on March 7, 2005. The March 7, 2005 complaint was fifteen pages long. In the March 10, 2005 order, the court directed the Clerk of the Court to send plaintiff, among other things, USM-285

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1 forms and a copy of the March 7, 2005 amended complaint. Plaintiff was to complete the forms
2 and return the forms and copies of the complaint to the court for service. Plaintiff submitted the
3 documents on March 21, 2005.

4 The complaint which plaintiff submitted for service and which was served on
5 defendants was the March 7, 2005 fifteen page amended complaint plus an additional eighty-one
6 pages of attachments. Defendants have now submitted the complaint and the attachments which
7 were served on them and have requested judicial notice.

8 Pursuant to Rule 201 of the Federal Rules of Civil Procedure, the court takes
9 judicial notice of the complaint which was served on defendants. Further, the court finds that the
10 complaint served on defendants is the operative complaint in this proceeding.

11 Accordingly, IT IS ORDERED that:

12 1. The defendants' request for judicial notice is granted;

13 2. The complaint served on defendants is the operative complaint in this action;

14 and

15 3.. The Clerk of the Court is directed to file the complaint which was served on
16 defendants, which is attached to Defendants' Request for Judicial Notice of the Complaint
17 Plaintiff Served on Defendants" (doc. 93) as exhibit 1, parts A and B.

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19 DATED: February 9, 2006.

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22 **CRAIG M. KELLISON**
23 UNITED STATES MAGISTRATE JUDGE
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